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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Larry L. Moore,) No. CV 09-1461-PHX-GMS (JRI)
Plaintiff,)
vs.) **ORDER**
Jaime Hindmarch, et al.,)
Defendants.)

Pending before the Court in this closed case is Plaintiff's pleading entitled "Request For: C.O.A. Certification Of Appealability" (Doc. 11), which the Court will deny.

I. Procedural Background

19 On July 14, 2009, Plaintiff Larry L. Moore, who is confined in the Arizona State
20 Prison Complex-Lewis, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983
21 (Doc. 1). Plaintiff did not pay the \$350.00 civil action filing fee but filed a deficient
22 Application to Proceed *In Forma Pauperis* (Doc. 3). By Order filed July 27, 2009 (Doc. 4),
23 the Court denied the Application to Proceed *In Forma Pauperis* without prejudice and gave
24 Plaintiff 30 days to pay the fee or file a new, completed Application to Proceed *In Forma*
25 *Pauperis* and a certified six-month trust account statement.

26 On July 29, 2009, Plaintiff filed a “Request For: Transcripts And Filed Motions In
27 Superior Court” (Doc. 5), which the Court denied without prejudice by Order filed August
28 12, 2009 (Doc. 6). On August 13, 2009, Plaintiff filed a new Application to Proceed *In*

¹ *Forma Pauperis* (Doc. 7), which included a six-month trust account statement.

2 By Order filed January 7, 2010 (Doc. 8), the Court granted the new Application to
3 Proceed In Forma Pauperis (Doc. 7) and dismissed the Complaint (Doc. 1) and this action
4 for failure to state a claim upon which relief may be granted. Judgment was entered on
5 January 7, 2010 (Doc. 10).

II. Request for Certificate of Appealability

7 On July 16, 2010, Plaintiff filed his “Request For: C.O.A. Certification Of
8 Appealability” (Doc. 11) (Request), in which he states that “[t]his is a request for
9 Certification of Appealability (C.O.A.). Petitioner [is] appealing the District Court’s
10 Judgment, to file a ‘Notice of Appeal’ to a higher court.”

11 Because a certificate of appealability is not required to appeal the dismissal and entry
12 of judgment in a *pro se* civil rights action brought pursuant to 42 U.S.C. § 1983, the Court
13 will construe Plaintiff's Request as a request for a certification that any appeal in this action
14 would be taken in good faith pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate
15 Procedure. After reviewing Plaintiff's Complaint (Doc. 1) and the Court's January 7, 2010
16 Order (Doc. 8) dismissing the Complaint and this action for failure to state a claim upon
17 which relief may be granted, the Court will deny Plaintiff's Request and certify that any
18 appeal in this matter would not be taken in good faith.

In so doing, the Court notes that Plaintiff has not filed a Notice of Appeal in this matter and that Plaintiff's Request was filed over six months after Judgment (Doc. 10) was entered in this matter. Pursuant to Rule 4(a)(1)(A) of the Federal Rules of Civil Procedure, Plaintiff was required to file an Notice of Appeal of the Court's Judgment in this matter within 30 days after the Judgment was entered. Accordingly, any Notice of Appeal of the Court's Judgment that Plaintiff may file in future in this matter would be untimely.

IT IS ORDERED:

26 (1) Plaintiff's "Request For: C.O.A. Certification Of Appealability" (Doc. 11),
27 which the Court **construes** as a request to for a certification that any appeal in this action

1 would be taken in good faith pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate
2 Procedure, is **denied**.

3 (2) The Court **certifies** pursuant to Rule 24(a)(3)(A) of the Federal Rules of
4 Appellate Procedure that any appeal of the Court's Judgment in this matter would **not** be
5 taken in good faith.

6 (3) This case **must remain closed**.

7 DATED this 18th day of August, 2010.

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10 G. Murray Snow
United States District Judge

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